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OFFICE OF PETITIONS

In re Application of :
Bedalov et al. :
Application No. 09/678,952 : ON PETITION
Filed: 3 October, 2000 :
Attorney Docket No. 112913.401 :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 9 September, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 22 January, 2001, for failure to timely reply to the Notice to File Missing Parts mailed on 21 November, 2000, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 August, 2002.

The petition is dismissed because the declaration filed with the present petition is defective in that it does not specify a mailing address for joint inventor Patrick Paddison as required by 37 CFR 1.63. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet.² A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 is required.

Additionally, petitioners must provide a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The correspondence address has been changed as indicated in the declaration filed on 9 September, 2002.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
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²37 CFR 1.63(c)(1); MPEP 605.03.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.



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